



# House of Representatives

## File No. 629

General Assembly

February Session, 2002

**(Reprint of File No. 209)**

Substitute House Bill No. 5286  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 4, 2002

### **AN ACT CONCERNING PUBLIC HEALTH EMERGENCY RESPONSE AUTHORITY.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 6,  
2       inclusive, of this act, and sections 19a-221 and 19a-222 of the general  
3       statutes, as amended by this act:

4       (1) "Public health emergency" means an occurrence or imminent  
5       threat of a communicable disease or contamination that poses a  
6       substantial risk of a significant number of human fatalities or incidents  
7       of permanent or long-term disability;

8       (2) "Isolation" means the physical separation and confinement of a  
9       person or a group of persons who are infected with a communicable  
10      disease or are contaminated or whom the commissioner reasonably  
11      believes to be infected with a communicable disease or to be  
12      contaminated in order to prevent or limit the transmission of the  
13      disease to the general public;

14 (3) "Quarantine " means the physical separation and confinement of  
15 a person or a group of persons who are exposed to a communicable  
16 disease, or whom the commissioner reasonably believes have been  
17 exposed to a communicable disease to prevent transmission to the  
18 general public;

19 (4) "Communicable disease" means a disease or condition, the  
20 infectious agent of which may pass or be carried, directly or indirectly,  
21 from the body of one person or animal to the body of another person  
22 or animal;

23 (5) "Contaminated" or "contamination" means contaminated or  
24 contamination by a biological toxin or a chemical, radioactive or any  
25 other substance sufficient to pose a substantial risk of death, disability,  
26 injury or harm to other persons;

27 (6) "Animal" means all vertebrate and invertebrate species;

28 (7) "Respondent" means a person ordered confined under section  
29 19a-221 of the general statutes, as amended by this act, or section 3 of  
30 this act; and

31 (8) "Commissioner" means the Commissioner of Public Health.

32 Sec. 2. (NEW) (*Effective from passage*) (a) In the event of a state-wide  
33 or regional public health emergency, the Governor shall declare that  
34 the emergency exists and may do any of the following: (1) Order the  
35 Commissioner of Public Health to implement all or a portion of the  
36 public health emergency response plan developed pursuant to section  
37 5 of this act; (2) order the commissioner to isolate or quarantine  
38 persons in accordance with section 3 of this act; (3) order the  
39 commissioner to vaccinate persons in accordance with section 4 of this  
40 act; or (4) apply for and receive federal assistance.

41 (b) Any declaration issued pursuant to this section shall become  
42 effective upon its filing with the Secretary of the State. The declaration  
43 shall state the nature of the public health emergency, the political

44 subdivisions or geographic area subject to the declaration, the  
45 conditions that have brought about the public health emergency, the  
46 likely duration of the public health emergency and the primary public  
47 health authority responding to the emergency. Any such declaration  
48 issued by the Governor may be disapproved by majority vote of a joint  
49 legislative committee consisting of the president pro tempore of the  
50 Senate, the speaker of the House of Representatives, the majority and  
51 minority leaders of both houses of the General Assembly and the  
52 cochairpersons and ranking members of the joint standing committee  
53 of the General Assembly having cognizance of matters relating to  
54 public health, provided at least one of the minority leaders votes for  
55 such disapproval. Such disapproval shall not be effective unless filed  
56 with the Secretary of the State not later than seventy-two hours after  
57 the filing of the Governor's declaration with the Secretary of the State.

58 (c) Any declaration or order issued pursuant to the provisions of  
59 this section shall be (1) published in full at least once in a newspaper  
60 having general circulation in each county, (2) announced on radio and  
61 television stations located in this state, including utilization of the  
62 Emergency Alert System established by the Federal Communications  
63 Commission, and (3) posted on the state Internet web site. Failure to  
64 take the actions specified in subdivisions (1) to (3), inclusive of this  
65 subsection shall not impair the validity of such declaration or order.

66 (d) Any person who, during the course of a public health emergency  
67 declared under this section, violates the provisions of any order issued  
68 pursuant to this section or who obstructs, resists, hinders or endangers  
69 any person who is authorized to carry out, and who is engaged in an  
70 activity that carries out, any of the provisions of the order shall be  
71 fined not more than one thousand dollars or imprisoned not more than  
72 one year, or both, for each offense.

73 Sec. 3. (NEW) (*Effective from passage*) (a) Notwithstanding the  
74 provisions of section 19a-221 of the general statutes, as amended by  
75 this act, if the Governor has declared a public health emergency, the  
76 Commissioner of Public Health, if so authorized by the Governor

77 pursuant to section 2 of this act, may order into quarantine or isolation,  
78 as appropriate, any person whom the commissioner has reasonable  
79 grounds to believe to be infected with a communicable disease or to be  
80 contaminated or at substantial risk of having a communicable disease  
81 or being contaminated or passing such communicable disease or  
82 contamination to other persons if the commissioner determines that  
83 such person poses a substantial threat to the public health and that  
84 quarantine or isolation is necessary and the least restrictive alternative  
85 to protect or preserve the public health.

86 (b) The order by the commissioner shall be in writing and contain:  
87 (1) The name of the person or persons to be quarantined or isolated, or  
88 the geographic area where such communicable disease is present or  
89 contamination exists; (2) the basis for the commissioner's belief  
90 regarding the presence of a communicable disease or that  
91 contamination exists within the geographical area; (3) the period of  
92 time during which the order shall remain effective; (4) the place of  
93 quarantine or isolation; and (5) other terms and conditions as may be  
94 necessary to protect and preserve the public health. Such order shall  
95 also inform the persons quarantined or isolated that they have the  
96 right to consult an attorney, the right to a hearing pursuant to this  
97 section, and that if such a hearing is requested, such person has the  
98 right to be represented by counsel, and that counsel will be provided at  
99 the state's expense if such person is unable to pay for such counsel. A  
100 copy of the order shall be provided to each person quarantined or  
101 isolated or notice of the order shall be provided by a means likely to  
102 reach those affected. The order shall be effective for not more than  
103 thirty days, provided further orders of quarantine or isolation  
104 pursuant to this section may be issued as to any respondent for  
105 successive periods of not more than fifteen days if issued before the  
106 last business day of the preceding period of quarantine or isolation.

107 (c) Persons in isolation or quarantine under this section shall be  
108 confined in a place designated by the commissioner until such time as  
109 the commissioner determines such person no longer poses a  
110 substantial threat to the public health or is released by order of a court

111 of competent jurisdiction. Any person who desires treatment by prayer  
112 or spiritual means without the use of any drugs or material remedies,  
113 but through the use of the principles, tenets or teachings of any church  
114 incorporated under chapter 598 of the general statutes, may be so  
115 treated during such person's quarantine or isolation in such place.

116 (d) A person in isolation or quarantine under this section shall have  
117 the right to a hearing before the Probate Court and, if such person or  
118 such person's representative requests a hearing in writing, such  
119 hearing shall be held not later than seventy-two hours after receipt of  
120 such request, excluding Saturdays, Sundays and legal holidays. A  
121 request for a hearing shall not stay the order of quarantine or isolation  
122 issued by the commissioner under this section. If the order of  
123 quarantine or isolation applies to persons living in a named  
124 geographic area, the court may authorize one or more attorneys to  
125 represent all the persons living in the named geographic area where  
126 there is a commonality of interests of such persons, provided a person  
127 may choose to be represented by his or her own attorney on an  
128 individual basis. The hearing shall be held to determine if (1) the  
129 person ordered confined is infected with a communicable disease or is  
130 contaminated or has a substantial risk of having a communicable  
131 disease or having been contaminated or passing a communicable  
132 disease or contamination to other persons, (2) the person poses a  
133 substantial threat to the public health, and (3) the quarantine or  
134 isolation of the person is necessary and the least restrictive alternative  
135 to protect and preserve the public health. The commissioner shall be a  
136 party to the proceedings.

137 (e) Notice of the hearing shall be given the respondent and shall  
138 inform the respondent that his or her representative has a right to be  
139 present at the hearing; that the respondent has a right to counsel; that  
140 the respondent, if indigent or otherwise unable to pay for or obtain  
141 counsel, has a right to have counsel appointed to represent the  
142 respondent; and that the respondent has a right to cross-examine  
143 witnesses testifying at the hearing. If the court finds such respondent is  
144 indigent or otherwise unable to pay for or obtain counsel, the court

145 shall appoint counsel for such respondent, unless such respondent  
146 refuses counsel and the court finds that the respondent understands  
147 the nature of the respondent's refusal. The court shall provide such  
148 respondent a reasonable opportunity to select such respondent's own  
149 counsel to be appointed by the court. If the respondent does not select  
150 counsel or if counsel selected by the respondent refuses to represent  
151 the respondent or is not available for such representation, the court  
152 shall appoint counsel for the respondent from a panel of attorneys  
153 admitted to practice in this state provided by the Probate Court  
154 Administrator in accordance with regulations adopted by the Probate  
155 Court Administrator in accordance with section 45a-77 of the general  
156 statutes. The reasonable compensation of appointed counsel for a  
157 person who is indigent or otherwise unable to pay for counsel shall be  
158 established by, and paid from funds appropriated to, the Judicial  
159 Department.

160 (f) Prior to such hearing, such respondent or the respondent's  
161 counsel shall be afforded access to all records including, without  
162 limitation, hospital records if such respondent is hospitalized. If such  
163 respondent is hospitalized at the time of the hearing, the hospital shall  
164 make available at such hearing for use by the respondent or the  
165 respondent's counsel all records in its possession relating to the  
166 condition of the respondent. Nothing in this subsection shall prevent  
167 timely objection to the admissibility of evidence in accordance with the  
168 rules of civil procedure.

169 (g) At such hearing, the commissioner shall have the burden of  
170 showing by clear and convincing evidence that the conditions of  
171 subsection (h) of this section are met.

172 (h) If the court, at such hearing, finds by clear and convincing  
173 evidence that the respondent is infected with a communicable disease  
174 or is contaminated or at substantial risk of having a communicable  
175 disease or having been contaminated and poses a substantial threat to  
176 the public health and that quarantine or isolation of the respondent is  
177 necessary and the least restrictive alternative to protect and preserve

178 the public health, it shall order (1) the continued quarantine or  
179 isolation of the respondent under such terms and conditions as it  
180 deems appropriate until such time as it is determined by the  
181 commissioner that release of the respondent would not constitute a  
182 substantial threat to the public health, or (2) the release of the  
183 respondent under such terms and conditions as it deems appropriate  
184 to protect the public health.

185 (i) If the court, at such hearing, fails to find that the conditions  
186 required for an order for quarantine or isolation under subsection (h)  
187 of this section have been proven, it shall order the immediate release of  
188 the respondent.

189 (j) A respondent may, not less than every thirty days, move the  
190 court to terminate or modify an order made under subsection (h) of  
191 this section, in which case a hearing shall be held in accordance with  
192 this section. The court shall annually, upon its own motion, hold a  
193 hearing to determine if the conditions which required the isolation or  
194 quarantine of the respondent still exist. If the court, at a hearing held  
195 upon motion of the respondent or its own motion, fails to find that the  
196 conditions which required isolation or quarantine still exist, it shall  
197 order the immediate release of the respondent. If the court finds that  
198 such conditions still exist but that a different remedy is appropriate  
199 under this section, the court shall modify its order accordingly.

200 (k) The commissioner may apply to the Superior Court for an order  
201 enforcing the provisions of any order issued by the commissioner  
202 pursuant to subsection (b) of this section and such other equitable  
203 relief as the court deems appropriate.

204 (l) Any person aggrieved by an order of the Probate Court under  
205 this section may appeal to the Superior Court.

206 Sec. 4. (NEW) (*Effective from passage*) (a) If the Governor declares a  
207 public health emergency, the Commissioner of Public Health, if so  
208 authorized by the Governor pursuant to section 2 of this act, may issue  
209 an order for the vaccination of such persons as the commissioner

210 deems reasonable and necessary in order to prevent the introduction  
211 or arrest the progress of a communicable disease or contamination if  
212 the commissioner determines that such communicable disease or  
213 contamination poses a substantial threat to the public health and such  
214 vaccination is necessary to protect and preserve the public health. A  
215 copy of the order shall be provided to such person or notice of the  
216 order shall be provided by a means likely to reach those affected. The  
217 commissioner may apply to the Superior Court for an order enforcing  
218 any order issued pursuant to this section. The court may modify the  
219 order as necessary to protect or preserve the public health.

220 (b) Any person to whom an order of vaccination is applicable may  
221 appeal such order not later than forty-eight hours after receipt of the  
222 order to the Probate Court. If the order applies to persons in a  
223 geographic area, the court may appoint one or more attorneys to  
224 represent all persons subject to such order who have a commonality of  
225 interests, provided a person may choose to be represented by his or  
226 her own attorney on an individual basis.

227 (c) Notice of the hearing shall be given the respondent and shall  
228 inform the respondent that his or her representative has a right to be  
229 present at the hearing; that the respondent has a right to counsel; that  
230 the respondent, if indigent or otherwise unable to pay for or obtain  
231 counsel, has a right to have counsel appointed to represent the  
232 respondent; and that the respondent has a right to cross-examine  
233 witnesses testifying at the hearing. If the court finds such respondent is  
234 indigent or otherwise unable to pay for or obtain counsel, the court  
235 shall appoint counsel for such respondent, unless such respondent  
236 refuses counsel and the court finds that the respondent understands  
237 the nature of the respondent's refusal. The court shall provide such  
238 respondent a reasonable opportunity to select such respondent's own  
239 counsel to be appointed by the court. If the respondent does not select  
240 counsel or if counsel selected by the respondent refuses to represent  
241 the respondent or is not available for such representation, the court  
242 shall appoint counsel for the respondent from a panel of attorneys  
243 admitted to practice in this state provided by the Probate Court



244 Administrator in accordance with regulations adopted by the Probate  
245 Court Administrator in accordance with section 45a-77 of the general  
246 statutes. The reasonable compensation of appointed counsel for a  
247 person who is indigent or otherwise unable to pay for counsel shall be  
248 established by, and paid from funds appropriated to, the Judicial  
249 Department.

250 (d) If the court, at such hearing, finds by clear and convincing  
251 evidence that the person or persons should be vaccinated in order to  
252 protect and preserve the public health, it shall order such person to be  
253 vaccinated.

254 (e) On or before October 1, 2002, the commissioner shall develop, in  
255 consultation with directors of health and boards of health, protocols  
256 for the general vaccination authorized under this section which shall  
257 include medical and religious exemptions. Such protocols shall be  
258 updated as necessary. Any person who is exempted from vaccination  
259 may be ordered into isolation.

260 Sec. 5. (NEW) (*Effective from passage*) The Commissioner of Public  
261 Health, in consultation with the town, city, borough and district  
262 directors of health and the state director of emergency management  
263 shall develop a plan for emergency responses to a public health  
264 emergency, as defined in section 1 of this act. Such emergency  
265 response plan shall not be a public record pursuant to section 1-200 of  
266 the general statutes, as amended.

267 Sec. 6. (NEW) (*Effective from passage*) If the Governor declares a  
268 public health emergency, the Commissioner of Public Health or the  
269 commissioner's designee may register death certificates as needed and  
270 carry out other duties related to the registration of deaths, including,  
271 but not limited to, the issuance of burial transit, removal and  
272 cremation permits.

273 Sec. 7. Section 19a-221 of the general statutes is repealed and the  
274 following is substituted in lieu thereof (*Effective from passage*):

275 [(a) For the purposes of this section, (1) "communicable disease"  
276 means a disease or condition, the infectious agent of which may pass  
277 or be carried, directly or indirectly, from the body of one person or  
278 animal to the body of another person or animal; and (2) "respondent"  
279 means a person ordered confined under this section.]

280 [(b)] (a) Any town, city, [or] borough or district director of health  
281 may order any person [into confinement whom he] isolated or  
282 quarantined whom such director has reasonable grounds to believe to  
283 be infected with [any] a communicable disease [and any person who  
284 intentionally or unintentionally harbors in or on the body amounts of  
285 radioactive material sufficient to constitute a radiation hazard to others  
286 and who is unable or unwilling to conduct himself in such manner as  
287 to not expose other persons to danger of infection or irradiation  
288 whenever] or to be contaminated if such director determines such  
289 person poses a substantial threat to the public health and [such action]  
290 isolation or quarantine is necessary to protect or preserve the public  
291 health, except that in the event the Governor declares a public health  
292 emergency, pursuant to section 2 of this act, each town, city, borough  
293 and district director of health shall comply with any order the  
294 Commissioner of Public Health issues in furtherance of the Governor's  
295 order pursuant to the declaration of the public health emergency.

296 [(c)] (b) The order by the director shall be in writing setting forth: (1)  
297 The name of the person to be [confined] isolated or quarantined, (2) the  
298 basis for the director's belief that the person has a communicable  
299 disease or [harbors radioactive material, that the person] has been  
300 contaminated and poses a substantial threat to the public health and  
301 that [confinement] isolation or quarantine is necessary to protect or  
302 preserve the public health, (3) the period of time during which the  
303 order shall remain effective, (4) the place of [confinement] isolation or  
304 quarantine as designated by the director, and (5) such other terms and  
305 conditions as may be necessary to protect and preserve the public  
306 health. Such order shall also inform the person [confined that he]  
307 isolated or quarantined that such person has the right to consult an  
308 attorney, the right to a hearing under this section, and that if such a

309 hearing is requested, [he] such person has the right to be represented  
310 by counsel, and that counsel will be provided at the state's expense if  
311 [he] such person is unable to pay for such counsel. A copy of the order  
312 shall be given to such person. [Within] Not later than twenty-four  
313 hours [of] after the issuance of the order, the director of health shall  
314 notify the [Commissioner of Public Health] commissioner that such an  
315 order has been issued. The order shall be effective for not more than  
316 fifteen days, provided further orders of [confinement] isolation or  
317 quarantine pursuant to this section may be issued as to any respondent  
318 for successive periods of not more than fifteen days if issued before the  
319 last business day of the preceding period of [confinement] isolation or  
320 quarantine.

321 [(d)] (c) A person ordered [confined] isolated or quarantined under  
322 this section shall be [confined] isolated or quarantined in a place  
323 designated by the director of health until such time as such director  
324 determines such person no longer poses a substantial threat to the  
325 public health or is released by order of a court of competent  
326 jurisdiction. Any person who desires treatment by prayer or spiritual  
327 means without the use of any drugs or material remedies, but through  
328 the use of the principles, tenets or teachings of any church  
329 incorporated under chapter 598, may be so treated during [his  
330 confinement] such person's isolation or quarantine in such place.

331 [(e)] (d) A person [confined] isolated or quarantined under this  
332 section shall have the right to a [court] hearing in Probate Court and, if  
333 such person or [his] such person's representative requests a hearing in  
334 writing, such hearing shall be held [within] not later than seventy-two  
335 hours [of] after receipt of such request, excluding Saturdays, Sundays  
336 and legal holidays. A request for a hearing shall not stay the order of  
337 [confinement] isolation or quarantine issued by the director of health  
338 under this section. The hearing shall be held to determine if (1) the  
339 person ordered [confined] isolated or quarantined is infected with a  
340 communicable disease, [or harbors radioactive material,] (2) the person  
341 poses a substantial threat to the public health, and (3) [confinement]  
342 isolation or quarantine of the person is necessary and the least

343 restrictive alternative to protect and preserve the public health. The  
344 [Commissioner of Public Health] commissioner shall have the right to  
345 be made a party to the proceedings.

346 [(f)] (e) Jurisdiction shall be vested in the court of probate for the  
347 district in which such person resides or is [confined] isolated or  
348 quarantined. The Probate Court Administrator shall appoint a three-  
349 judge court from among the several judges of probate to conduct the  
350 hearing. Such three-judge court shall consist of at least one judge who  
351 is an attorney-at-law admitted to practice in this state. The judge of the  
352 court of probate having jurisdiction under the provisions of this  
353 section shall be a member, provided such judge may disqualify himself  
354 or herself in which case all three members of such court shall be  
355 appointed by the Probate Court Administrator. Such three-judge court  
356 when convened shall be subject to all of the provisions of law as if it  
357 were a single-judge court. The [involuntary confinement] isolation or  
358 quarantine of a person under this section shall not be ordered by the  
359 court without the vote of at least two of the three judges convened  
360 hereunder. The judges of such court shall designate a chief judge from  
361 among their members. All records for any case before the three-judge  
362 court shall be maintained in the court of probate having jurisdiction  
363 over the matter as if the three-judge court had not been appointed.

364 [(g)] (f) Notice of the hearing shall be given the respondent and shall  
365 inform [him] the respondent that [he or his] his or her representative  
366 has a right to be present at the hearing; that [he] the respondent has a  
367 right to counsel; that [he] the respondent, if indigent or otherwise  
368 unable to pay for or obtain counsel, has a right to have counsel  
369 appointed to represent [him] the respondent; and that [he] the  
370 respondent has a right to cross-examine witnesses testifying at the  
371 hearing. If the court finds such respondent is indigent or otherwise  
372 unable to pay for or obtain counsel, the court shall appoint counsel for  
373 [him] such respondent, unless such respondent refuses counsel and the  
374 court finds that the respondent understands the nature of [his] the  
375 respondent's refusal. The court shall provide such respondent a  
376 reasonable opportunity to select [his] such respondent's own counsel

377 to be appointed by the court. If the respondent does not select counsel  
378 or if counsel selected by the respondent refuses to represent [him] the  
379 respondent or is not available for such representation, the court shall  
380 appoint counsel for the respondent from a panel of attorneys admitted  
381 to practice in this state provided by the Probate Court Administrator in  
382 accordance with regulations [promulgated] adopted by the Probate  
383 Court Administrator in accordance with section 45a-77. The reasonable  
384 compensation of appointed counsel for a person who is indigent or  
385 otherwise unable to pay for counsel shall be established by, and paid  
386 from funds appropriated to, the Judicial Department.

387 [(h)] (g) Prior to such hearing, such respondent or [his] respondent's  
388 counsel shall be afforded access to all records including, without  
389 limitation, hospital records if such respondent is hospitalized. If such  
390 respondent is hospitalized at the time of the hearing, the hospital shall  
391 make available at such hearing for use by the [patient] respondent or  
392 [his] the respondent's counsel all records in its possession relating to  
393 the condition of the respondent. Nothing [herein] in this subsection  
394 shall prevent timely objection to the admissibility of evidence in  
395 accordance with the rules of civil procedure.

396 [(i)] (h) At such hearing, the director of health who ordered the  
397 [confinement] isolation or quarantine of the respondent shall have the  
398 burden of showing by clear and convincing evidence that the  
399 respondent is infected with a communicable disease or [harbors  
400 radioactive material] is contaminated and poses a substantial threat to  
401 the public health and that [confinement] isolation or quarantine of the  
402 respondent is necessary and the least restrictive alternative to protect  
403 and preserve the public health.

404 [(j)] (i) If the court, [on] at such hearing, finds by clear and  
405 convincing evidence that the respondent is infected with a  
406 communicable disease or [harbors radioactive material] is  
407 contaminated and poses a substantial threat to the public health and  
408 that [confinement] isolation or quarantine of the respondent is  
409 necessary and the least restrictive alternative to protect and preserve

410 the public health, it shall order (1) the continued [confinement]  
411 isolation or quarantine of the respondent under such terms and  
412 conditions as it deems appropriate until such time as it is determined  
413 that [his] the respondent's release would not constitute a substantial  
414 threat to the public health, or (2) the release of the respondent under  
415 such terms and conditions as it deems appropriate to protect the public  
416 health.

417 [(k)] (j) If the court, [on] at such hearing, fails to find that the  
418 conditions required for an order for [confinement] isolation or  
419 quarantine have been proven, it shall order the immediate release of  
420 the respondent.

421 [(l)] (k) A respondent may, at any time, move the court to terminate  
422 or modify an order made under subsection [(j)] (i) of this section, in  
423 which case a hearing shall be held in accordance with this section. The  
424 court shall annually, upon its own motion, hold a hearing to determine  
425 if the conditions which required the [confinement or restriction]  
426 isolation or quarantine of the respondent still exist. If the court, at a  
427 hearing held upon motion of the respondent or its own motion, fails to  
428 find that the conditions which required [confinement or restriction]  
429 isolation or quarantine still exist, it shall order the immediate release of  
430 the respondent. If the court finds that such conditions still exist but  
431 that a different remedy is appropriate under this section, the court  
432 shall modify its order accordingly.

433 [(m)] (l) Any person aggrieved by an order of the Probate Court [of  
434 Probate] under this section may appeal to the Superior Court.

435 Sec. 8. Section 19a-222 of the general statutes is repealed and the  
436 following is substituted in lieu thereof (*Effective from passage*):

437 (a) Directors of health and boards of health may adopt such  
438 measures for the general vaccination of the inhabitants of their  
439 respective towns, cities or boroughs as they deem reasonable and  
440 necessary in order to prevent the introduction or arrest the progress of  
441 smallpox, and the expenses in whole or in part of such general

442 vaccination shall, upon their order, be paid out of the town, city or  
443 borough treasury, as the case may be. Any person who refuses to be  
444 vaccinated, or who prevents a person under his or her care and control  
445 from being vaccinated, on application being made by the director of  
446 health or board of health or by a physician employed by the director of  
447 health or board of health for that purpose, unless, in the opinion of  
448 another physician, it would not be prudent on account of sickness,  
449 shall be fined not more than five hundred dollars.

450 (b) Notwithstanding the provisions of subsection (a) of this section,  
451 in the event the Governor declares a public health emergency pursuant  
452 to section 2 of this act, directors of health and boards of health shall  
453 comply with any order the Commissioner of Public Health issues in  
454 furtherance of the Governor's order pursuant to the declaration of the  
455 public health emergency.

456 (c) Each person required to be vaccinated pursuant to subsection (a)  
457 of this section shall be given notice of an order to be vaccinated by  
458 personal service or by whatever means the director deems appropriate.  
459 Any person who is unable or unwilling for reasons of health or  
460 religion to undergo vaccination shall be isolated at a location  
461 determined by the director. The order shall contain a notice of the right  
462 to appeal the order in accordance with subsection (d) of this section.

463 (d) Any person who has received an order pursuant to subsection  
464 (b) of this section may appeal such order to the Probate Court not later  
465 than forty-eight hours from the time of receipt of such order.

466 (e) Notice of the hearing shall be given the respondent and shall  
467 inform the respondent that his or her representative has a right to be  
468 present at the hearing; that the respondent has a right to counsel; that  
469 the respondent, if indigent or otherwise unable to pay for or obtain  
470 counsel, has a right to have counsel appointed to represent the  
471 respondent; and that the respondent has a right to cross-examine  
472 witnesses testifying at the hearing. If the court finds such respondent is  
473 indigent or otherwise unable to pay for or obtain counsel, the court

474 shall appoint counsel for such respondent, unless such respondent  
475 refuses counsel and the court finds that the respondent understands  
476 the nature of the respondent's refusal. The court shall provide such  
477 respondent a reasonable opportunity to select such respondent's own  
478 counsel to be appointed by the court. If the respondent does not select  
479 counsel or if counsel selected by the respondent refuses to represent  
480 the respondent or is not available for such representation, the court  
481 shall appoint counsel for the respondent from a panel of attorneys  
482 admitted to practice in this state provided by the Probate Court  
483 Administrator in accordance with regulations adopted by the Probate  
484 Court Administrator in accordance with section 45a-77. The reasonable  
485 compensation of appointed counsel for a person who is indigent or  
486 otherwise unable to pay for counsel shall be established by, and paid  
487 from funds appropriated to, the Judicial Department.

488 (f) If the court, at a hearing, finds by clear and convincing evidence  
489 that the person needs to be vaccinated in order to protect and preserve  
490 the public health, such court shall order the person to be vaccinated.

491 (g) The director of health may apply to the Superior Court for an  
492 order enforcing any order issued pursuant to this section requiring a  
493 person to be vaccinated. The court may modify the order as necessary  
494 to protect or preserve the public health.

495 Sec. 9. Section 28-1 of the general statutes is repealed and the  
496 following is substituted in lieu thereof (*Effective from passage*):

497 As used in this chapter:

498 [(a)] (1) "Attack" means any attack or series of attacks by an enemy  
499 of the United States causing, or which may cause, substantial damage  
500 or injury to civilian property or persons in the United States in any  
501 manner by sabotage or by the use of bombs, shellfire or atomic,  
502 radiological, chemical, bacteriological or biological means or other  
503 weapons or processes.

504 [(b)] (2) "Major disaster" means any hurricane, storm, flood, high



505 water, wind-driven water, tidal wave, tsunami, earthquake, volcanic  
506 eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or  
507 other catastrophe in any part of this state which, in the determination  
508 of the President, causes damage of sufficient severity and magnitude  
509 to warrant major disaster assistance under the Federal Disaster Relief  
510 Act of 1974, above and beyond emergency services by the federal  
511 government, to supplement the efforts and available resources of this  
512 state, local governments thereof, and disaster relief organizations in  
513 alleviating the damage, loss, hardship, or suffering caused thereby.

514 [(c)] (3) "Emergency" means any hurricane, tornado, storm, flood,  
515 high water, wind-driven water, tidal wave, tsunami, earthquake,  
516 volcanic eruption, landslide, mudslide, snowstorm, drought, fire  
517 explosion, or other catastrophe in any part of this state which requires  
518 federal emergency assistance to supplement state and local efforts to  
519 save lives and protect property, public health and safety or to avert or  
520 lessen the threat of a disaster and includes a public health emergency,  
521 as defined in section 1 of this act.

522 [(d)] (4) "Civil preparedness" means all those activities and  
523 measures designed or undertaken [(1)] (A) to minimize or control the  
524 effects upon the civilian population of major disaster, [(2)] (B) to  
525 minimize the effects upon the civilian population caused or which  
526 would be caused by an attack upon the United States, [(3)] (C) to deal  
527 with the immediate emergency conditions which would be created by  
528 any such attack, major disaster or emergency, and [(4)] (D) to  
529 effectuate emergency repairs to, or the emergency restoration of, vital  
530 utilities and facilities destroyed or damaged by any such attack, major  
531 disaster or emergency. Such term shall include, but shall not be limited  
532 to, [(A)] (i) measures to be taken in preparation for anticipated attack,  
533 major disaster or emergency, including the establishment of  
534 appropriate organizations, operational plans and supporting  
535 agreements; the recruitment and training of personnel; the conduct of  
536 research; the procurement and stockpiling of necessary materials and  
537 supplies; the provision of suitable warning systems; the construction  
538 and preparation of shelters, shelter areas and control centers; and,

539 when appropriate, the nonmilitary evacuation of the civilian  
540 population; [(B)] (ii) measures to be taken during attack, major disaster  
541 or emergency, including the enforcement of passive defense  
542 regulations prescribed by duly established military or civil authorities;  
543 the evacuation of personnel to shelter areas; the control of traffic and  
544 panic; and the control and use of lighting and civil communication;  
545 and [(C)] (iii) measures to be taken following attack, major disaster or  
546 emergency, including activities for fire fighting; rescue, emergency  
547 medical, health and sanitation services; monitoring for specific hazards  
548 of special weapons; unexploded bomb reconnaissance; essential debris  
549 clearance; emergency welfare measures; and immediately essential  
550 emergency repair or restoration of damaged vital facilities.

551 [(e)] (5) "Civil preparedness forces" means any organized personnel  
552 engaged in carrying out civil preparedness functions in accordance  
553 with the provisions of this chapter or any regulation or order  
554 thereunder. All the police and fire forces of the state or any political  
555 subdivision of the state, or any part of any political subdivision,  
556 including all the auxiliaries of these forces, shall be construed to be a  
557 part of the civil preparedness forces. Any member of the civil  
558 preparedness forces who is called upon either by civil preparedness  
559 personnel or state or municipal police personnel to assist in any  
560 emergency shall be deemed to be engaging in civil preparedness duty  
561 while assisting in such emergency or while engaging in training under  
562 the auspices of the Office of Emergency Management or the state or  
563 municipal police department, for the purpose of eligibility for death,  
564 disability and injury benefits as provided in section 28-14.

565 [(f)] (6) "Mobile support unit" means an organization of civil  
566 preparedness forces created in accordance with the provisions of this  
567 chapter to be dispatched by the Governor or state director of  
568 emergency management supplement civil preparedness forces in a  
569 stricken or threatened area.

570 [(g)] (7) "Civil preparedness emergency" or "disaster emergency"  
571 mean an emergency declared by the Governor under the provisions of

572 this chapter in the event of serious disaster or of enemy attack,  
573 sabotage or other hostile action within the state or a neighboring state,  
574 or in the event of the imminence thereof.

575 [(h)] (8) "Local civil preparedness emergency" or "disaster  
576 emergency" mean an emergency declared by the chief executive officer  
577 of any town or city in the event of serious disaster affecting such town  
578 or city.

579 [(i)] (9) "Governor" means the Governor or anyone legally  
580 administering the office of Governor.

581 [(j)] (10) "Political subdivision" means any city, town, municipality,  
582 borough or other unit of local government.

583 Sec. 10. Subsection (a) of section 28-5 of the general statutes is  
584 repealed and the following is substituted in lieu thereof (*Effective from*  
585 *passage*):

586 (a) The director may make studies and surveys of the manpower,  
587 industries, resources and facilities of the state to ascertain the  
588 capabilities of the state for civil preparedness and to plan for their  
589 most efficient use in time of emergency. The director shall consult with  
590 the Commissioner of Public Health concerning preparation for an  
591 emergency response to a public health emergency, as defined in  
592 section 1 of this act. The director may apply to the superior court for  
593 the judicial district of Hartford, or to a judge of said court if the court is  
594 not in session, for a subpoena to compel the attendance of witnesses or  
595 the production of books, papers, records or documents of individuals,  
596 firms, associations or corporations as may be necessary to the effective  
597 preparation of the civil preparedness of the state. Said court or such  
598 judge shall, before issuing such subpoena, provide adequate  
599 opportunity for the director and the party against whom the subpoena  
600 is requested to be heard. No such subpoena shall issue unless the court  
601 or judge certifies that the attendance of such witness or the production  
602 of such books, papers, records or documents is reasonably necessary to  
603 the effective preparation of the civil preparedness of the state and that

604 the director has made reasonable efforts to secure such attendance or  
605 such books, papers, records or documents without recourse to  
606 compulsory process.

607 Sec. 11. Section 28-9 of the general statutes is repealed and the  
608 following is substituted in lieu thereof (*Effective from passage*):

609 In the event of serious disaster, enemy attack, sabotage or other  
610 hostile action or in the event of the imminence thereof, or in the event  
611 of a public health emergency, as defined in section 1 of this act, the  
612 Governor may proclaim that a state of civil preparedness emergency  
613 exists, in which event [he] the Governor may personally take direct  
614 operational control of any or all parts of the civil preparedness forces  
615 and functions in the state. Any such proclamation shall be effective  
616 upon filing with the Secretary of the State. Any such proclamation, or  
617 order issued pursuant thereto, issued by the Governor because of a  
618 disaster resulting from man-made cause may be disapproved by  
619 majority vote of a joint legislative committee consisting of the  
620 president pro tempore of the Senate, the speaker of the House of  
621 Representatives and the majority and minority leaders of both houses  
622 of the General Assembly, provided at least one of the minority leaders  
623 votes for such disapproval. Such disapproval shall not be effective  
624 unless filed with the Secretary of the State [within] not later than  
625 seventy-two hours [of] after the filing of the Governor's proclamation  
626 with the Secretary of the State. As soon as possible after such  
627 proclamation, if the General Assembly is not then in session, the  
628 Governor shall meet with the president pro tempore of the Senate, the  
629 speaker of the House of Representatives, and the majority and  
630 minority leaders of both houses of the General Assembly and shall  
631 confer with them on the advisability of calling a special session of the  
632 General Assembly. Upon such proclamation, the following provisions  
633 of this section and the provisions of section 28-11, as amended by this  
634 act, shall immediately become effective and shall continue in effect  
635 until the Governor proclaims the end of the civil preparedness  
636 emergency:

637        [(a)] (1) The Governor is authorized and empowered to modify or  
638 suspend in whole or in part, by order as hereinafter provided, any  
639 statute, regulation or requirement or part thereof whenever in [his] the  
640 Governor's opinion it is in conflict with the efficient and expeditious  
641 execution of civil preparedness functions. The Governor shall specify  
642 in such order the reason or reasons therefor and any statute, regulation  
643 or requirement or part thereof to be modified or suspended and the  
644 period, not exceeding six months unless sooner revoked, during which  
645 such order, modification or suspension shall be enforced. Any such  
646 order shall have the full force and effect of law upon the filing of the  
647 full text thereof in the office of the Secretary of the State. The Secretary  
648 of the State shall, [within] not later than four days after receipt of the  
649 order, cause such order to be printed and published in full in at least  
650 one issue of a newspaper published in each county and having general  
651 circulation therein, but failure to publish shall not impair the validity  
652 of such order. Any statute, regulation or requirement inconsistent  
653 therewith shall be inoperative for the effective period of such order or  
654 suspension. Any such order shall be communicated by the Governor at  
655 the earliest date to both houses of the General Assembly.

656        [(b)] (2) The Governor may order into action all or any part of the  
657 Office of Emergency Management or local or joint organizations for  
658 civil preparedness mobile support units or any other civil  
659 preparedness forces.

660        [(c)] (3) The Governor shall order and enforce such blackouts and  
661 radio silences as are authorized by the United States Army or its duly  
662 designated agency and may take any other precautionary measures  
663 reasonably necessary in the light of the emergency.

664        [(d)] (4) The Governor may designate such vehicles and persons as  
665 shall be permitted to move and the routes which they shall follow.

666        [(e)] (5) The Governor shall take appropriate measures for  
667 protecting the health and safety of inmates of state institutions and  
668 children in schools.

669        [(f)] (6) The Governor may order the evacuation of all or part of the  
670        population of stricken or threatened areas and may take such steps as  
671        are necessary for the receipt and care of such evacuees.

672        [(g)] (7) The Governor may take such other steps as are reasonably  
673        necessary in the light of the emergency to protect the health, safety and  
674        welfare of the people of the state, to prevent or minimize loss or  
675        destruction of property and to minimize the effects of hostile action.

676        [(h)] (8) In order to insure the automatic and effective operation of  
677        civil preparedness in the event of enemy attack, sabotage or other  
678        hostile action, or in the event of the imminence thereof, the Governor  
679        may, at [his] the Governor's discretion, at any time prior to actual  
680        development of such conditions, issue such proclamations and  
681        executive orders as [he] the Governor deems necessary, such  
682        proclamations and orders to become effective only under such  
683        conditions.

684        Sec. 12. Subsection (a) of section 28-11 of the general statutes is  
685        repealed and the following is substituted in lieu thereof (*Effective from*  
686        *passage*):

687        (a) During the existence of a civil preparedness or public health  
688        emergency, the Governor may, in the event of shortage or disaster  
689        making such action necessary for the protection of the public, take  
690        possession (1) of any land or buildings, machinery or equipment; (2) of  
691        any horses, vehicles, motor vehicles, aircraft, ships, boats, rolling stock  
692        of steam, diesel or electric railroads or any other means of conveyance  
693        whatsoever; (3) of any antitoxins, pharmaceutical products, or other  
694        biologic products; and (4) of any cattle, poultry or any provisions for  
695        [man] persons or beast, and any fuel, gasoline or other means of  
696        propulsion necessary or convenient for the use of the military or naval  
697        forces of the state or of the United States, or for the better protection of  
698        the welfare of the state or its inhabitants according to the purposes of  
699        this chapter.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage</i>
Sec. 10	<i>from passage</i>
Sec. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

<b>Fund-Type</b>	<b>Agency Affected</b>	<b>FY 03 \$</b>	<b>FY 04 \$</b>
GF - Cost	Public Health, Dept.	See Below	See Below
GF - Cost	Governor's Off.	See Below	See Below
GF - Cost	Military Dept.	See Below	See Below
GF - Cost	Judicial Dept.	See Below	See Below
PCAF	Judicial Dept.	See Below	See Below

Note: GF=General Fund; PCAF=Probate Court Administration Fund

#### **Municipal Impact:**

<b>Effect</b>	<b>Municipalities</b>	<b>FY 03 \$</b>	<b>FY 04 \$</b>
STATE MANDATE - See Below	All Municipalities	See Below	See Below

### **Explanation**

The bill itemizes the responsibilities of selected state agencies in cases in which a public health emergency has been declared by the governor and expands the authority of local directors of health to confine persons and order vaccinations.

### **Declaration of Public Health Emergency**

The bill confers various duties upon the Department of Public Health (DPH), the Office of Emergency Management (OEM) within the Military Department, the Superior Court, probate courts and local directors of health that are contingent upon a declaration by the governor of a public health emergency. Any resulting state or local costs would be triggered by situations warranting such a declaration and would vary directly with the severity and scope of the health emergency, which cannot be predicted in advance.



Its enactment may facilitate public health control efforts related to imminent threats of communicable diseases or contamination. To the extent that these efforts are successful in mitigating the impact of these emergency situations, a potential significant future state and local cost savings may result under various health care and/or emergency management programs.

As provided in CGS Section 28-5, OEM's role is to develop and prepare plans, in coordination with the federal government and other state agencies, to address major disasters and other emergency conditions. While additional resources may be necessary to address certain declared emergencies, passage of the bill is not anticipated to result in any additional fiscal impact.

DPH will be able to amend the state health plan and other regulations as required in the bill within its anticipated budgetary resources.

#### **Authority of Local Health Directors to Quarantine/Isolate and Vaccinate**

The bill expands the authority of local health directors to order isolation and quarantine of persons. It also expands their authority to order vaccinations and allows them to apply to the Superior Court for an enforcement order. Any party who is the subject of a local health director's order may request a hearing before the probate court to contest it. The bill requires the court to hold a hearing within 72 hours after receiving a written request from the person (excluding weekends and holidays) and to provide legal counsel to the person if they are unable to pay.

Any resulting workload increase to probate courts is expected to be minimal. The probate court is a non-General Fund agency that is funded through fees and assessments on court business. Additional revenues may be generated as the court for the district in which the party resides would be eligible to collect a \$150 application fee. It is uncertain which party, the local health department or the person

challenging the order, would be responsible for paying this court fee.

The potential cost to the Judicial Department to hold hearings in response to appeals from persons aggrieved by an order of a probate court is uncertain, pending circumstances which include: (1) the total number of hearings, (2) the number of hearings involving indigents, and (3) the applicability of the court's ability under the bill to authorize one or more attorneys to represent all persons in a geographic area named in an order. The per diem maximum cost to provide counsel for a hearing on a quarantine order would be \$182.

Finally, the bill increases from \$5 to \$500 the maximum fine that can be imposed upon a person who refuses to comply with a vaccination order issued by a local health director. A future minimal revenue gain would result for local departments or districts of health if this prompts an increase in fines collected from individuals in times of public health emergency.

House "A" increases from \$5 to \$500 the maximum fine that can be imposed upon a person refusing to comply with a vaccination order. This results in a potential minimal revenue gain to municipalities.

It allows persons confined or subject to a vaccination order by the commissioner of public health to request a hearing before the probate court. Under the original bill these hearings would have been held by the Superior Court. This removes any associated potential cost to the Judicial Department, increases the workload of probate courts and generates additional fee revenues for any affected probate court.

The amendment also makes various other changes which do not materially alter the underlying fiscal note. Among these changes are:

- Expanding the rights of individuals to decline a vaccination order of a local health director and allowing them instead to be quarantined or isolated;
- Authorizing the Superior Court to modify a vaccination

order issued by the commissioner as necessary to protect or preserve the public health;

- Requiring any public health emergency declaration or order to be advertised in the media and posted on the state Internet web site; and
- Eliminating a provision of the original bill which would have expanded the list of reportable diseases and findings to include instances of anthrax and other diseases likely to be caused by bioterrorism.

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**OLR Amended Bill Analysis**

sHB 5286 (as amended by House Amendment "A")\*

**AN ACT CONCERNING PUBLIC HEALTH EMERGENCY  
RESPONSE AUTHORITY****SUMMARY:**

This bill strengthens the governor's, the Department of Public Health (DPH) commissioner's, and local health directors' powers to respond to a public health emergency. The bill:

1. authorizes the governor to declare a public health emergency and order the DPH commissioner to take certain actions and allows legislative leaders to disapprove it;
2. includes public health emergency in the definition of emergency for civil preparedness purposes and authorizes the governor to declare a civil preparedness emergency in the event of a public health emergency;
3. requires DPH to develop a public health emergency response plan that is exempt from Freedom of Information disclosure;
4. authorizes the commissioner to quarantine, isolate, and vaccinate people in the event of a public health emergency;
5. expands existing quarantine and vaccination authority of local health directors;
6. allows the governor to seize anti-toxins or other biologic products necessary to protect public health in the event of a declared civil preparedness emergency; and
7. allows DPH to register death certificates and carry out related duties in the event of a public health emergency.

\*House Amendment "A" authorizes the governor to declare a public health emergency; requires DPH to develop a public health emergency response plan separate from the state health plan; adds medical and religious exemptions from vaccination and due process procedures for appealing isolation, quarantine, and vaccination orders; allows the DPH commissioner to register deaths, if necessary; and removes the addition of anthrax to DPH's list of reportable diseases.

EFFECTIVE DATE: Upon passage

## **GOVERNOR'S AUTHORITY**

### ***Public Health Emergency Order***

The bill authorizes the governor to declare a statewide or regional public health emergency. He can do this when a communicable disease or contamination that poses a substantial risk of significant human fatalities or permanent or long-term disabilities occurs or is an imminent threat. A communicable disease under the bill and current law is a disease or condition that can be directly or indirectly passed or carried from a person or animal to another person or animal (vertebrate or invertebrate). Contamination occurs when a biological toxin or chemical, radioactive, or other substance is sufficient to pose a substantial risk of death, disability, injury, or harm to others.

The governor's declaration must state the nature of the emergency, the towns or geographic areas subject to the declaration, the conditions that create the emergency, how long it is likely to last, and the primary public health authority responding to the emergency. It takes effect when it is filed with the secretary of the state.

The bill allows six members of a 10-member legislative committee to vote to disapprove the governor's declaration within 72 hours of its being filed with the secretary. The committee is comprised of the House speaker, Senate president pro tempore, the House and Senate majority and minority leaders, and the Public Health Committee's chairmen and ranking members. At least one of the minority leaders must vote to disapprove. Under current law, a similar disapproval process applies when the governor declares a civil preparedness emergency.

When he declares a public health emergency the governor can order the public health commissioner to implement all or part of the public health emergency response plan and isolate, quarantine, or vaccinate people. He can also apply for and receive federal help.

The declaration and any orders issued pursuant to it must be published in full at least once in a newspaper with general circulation in each county, announced on radio and television stations, and posted on the state's website. But failure to take any of these actions does not

invalidate the declaration or orders.

The bill anyone who violates an order issued pursuant to the governor's declaration to a \$1,000 fine, up to one year in prison, or both for each offense. It imposes the same penalties on anyone who obstructs, resists, hinders, or endangers anyone who is authorized to carry out any provision of the order or engaged in an activity that carries it out.

### ***Civil Preparedness Emergency Order***

The bill authorizes the governor to declare a civil preparedness emergency and take all necessary action in the event of a public health emergency. He can already do this in the event or threat of a serious disaster, enemy attack, sabotage, or other hostile action. By law, the actions the governor may take include modifying or suspending any statute, regulation, or requirement whenever he believes it conflicts with the speedy and efficient execution of civil preparedness functions.

The bill also extends the governor's authority to seize property in the event of a shortage or disaster during a declared civil preparedness or public health emergency to include anti-toxins and pharmaceutical or other biologic products that must be seized for military or public health purposes.

## **DEPARTMENT OF PUBLIC HEALTH AUTHORITY**

### ***Public Health Emergency Response Plan***

The bill requires the commissioner to develop a plan to respond to a public health emergency. He must do this in consultation with local health directors and the OEM director, and the bill requires the OEM director to consult with him. The bill exempts the plan from disclosure under the Freedom of Information Act.

### ***Quarantine and Isolation Authority***

The bill authorizes the commissioner to quarantine or isolate people when the governor orders him to do so when he declares a public health emergency. (Local health directors already have this authority, see below.) The bill defines isolation as the physical separation and confinement of one or more people (1) who are infected with a

communicable disease or are contaminated or (2) who the commissioner reasonably believes are infected or contaminated. It defines quarantine as the physical separation and confinement of people who are exposed, or who the commissioner reasonably believes have been exposed, to a communicable disease. In both cases the action is taken in order to prevent or limit the transmission of the disease to the public.

The commissioner can order someone quarantined or isolated if he has reasonable grounds to believe the person (1) is infected with a communicable disease or is contaminated or is at substantial risk of having a communicable disease or being contaminated or passing the disease or contamination to other people, (2) poses a substantial threat to the public health, and (3) quarantine or isolation is needed and the least restrictive alternative to protect the public health. The commissioner can apply to Superior Court to have his orders enforced or for other equitable relief.

The commissioner's order must be in writing and contain (1) the name of the person or people to be quarantined or isolated and the geographic area where the communicable disease or contamination exists; (2) the basis for the commissioner's belief that a communicable disease or contamination exists in that area, (3) the time period for the isolation or quarantine, (4) where the isolation or quarantine will take place, and (5) other necessary terms and conditions.

The order must inform the people affected that they have a right to consult an attorney and a court hearing, and if a hearing is requested, the right to counsel, which the state must pay if the person cannot afford it. Each person affected must receive a copy of the order, or a notice must be provided by a means most likely to reach those affected. The order is effective for up to 30 days. Further orders for successive 15-day periods can be issued if this is done before the last business day of the previous confinement period.

Isolation or quarantine must be in a place the commissioner determines. It continues until he determines the person is no longer a substantial threat to the public health or is released by court order. A person wanting treatment by prayer or spiritual means through principles and teachings of any incorporated church, without the use of drugs or material remedies, may receive such treatment during confinement.

A confined person has the right to a probate court hearing to contest the order. The bill applies existing due process procedures governing appeals of local health directors' confinement orders to appeals of the commissioner's quarantine or isolation orders. These include (1) notice requirements, including the respondent's right to counsel and to cross-examine witnesses; (2) the process by which counsel is appointed for indigent respondents and compensated; (3) the respondent's right to access all records; and (4) procedures that apply if the respondent is hospitalized when the hearing occurs.

The hearing must be held within 72 hours of receipt of a written request (excluding weekends and holidays.) A hearing request does not stay the confinement order. If the order applies to people living in a named geographic area, the court can authorize one or more attorneys to represent all of them when they have a common of interest. But in this circumstance an individual can choose to be represented by his own lawyer.

The hearing must determine if (1) the person is infected with a communicable disease or is contaminated or is at substantial risk of having a communicable disease or being contaminated or passing the disease or contamination to other people, (2) poses a substantial threat to the public health, and (3) quarantine or isolation is needed and is the least restrictive alternative to protect the public health. The commissioner has the burden of showing by clear and convincing evidence that all of these conditions exist. The bill makes the commissioner a party to the proceeding.

If the court finds by clear and convincing evidence that the above three conditions are met, it must order (1) continued confinement under terms and conditions it finds appropriate until the time the commissioner determines that release of the person would not threaten the public health or (2) release of the person under terms and conditions necessary to protect the public health. The court must order the immediate release of the person if the conditions required for a confinement order have not been proven. The bill permits anyone aggrieved by a probate court decision to appeal to the Superior Court.

The bill permits a person who is ordered quarantined or isolated to ask the probate court every 30 days to modify or terminate its order. And it requires the court to review its order annually. The same process is



available under current law and the bill to people the court quarantines or isolates after a local health director's order.

### ***Vaccinations***

The bill authorizes the commissioner to issue vaccination orders if the governor orders him to do so when he declares a public health emergency. The commissioner can order vaccinations for those people he deems reasonable and necessary to prevent the introduction or stop the progress of a communicable disease. He must determine that the disease poses a substantial threat to the public health and vaccination is necessary to protect the public health. The person must receive a copy of the order or notice of it must be provided by a means likely to reach those affected. The commissioner can apply to the Superior Court to enforce the vaccination order. And the court can modify the order as needed to protect or preserve the public health.

The bill requires the commissioner to develop vaccination protocols that include medical and religious exemptions and update them as needed. Anyone who is exempt from vaccination may be ordered into isolation. The commissioner must develop the protocols in consultation with local directors and boards of health by October 1, 2002.

A person can appeal a vaccination order to the probate court within 48 hours after receiving it. If the order applies to people in a geographic area, the court can appoint attorneys to represent all those with a common interest. But in this circumstance an individual can choose to be represented by his own lawyer. The bill applies existing due process procedures governing appeals of local health directors' confinement orders to appeals of the commissioner's quarantine or isolation orders. These include (1) notice requirements, including the respondent's right to counsel and to cross-examine witnesses and (2) the process by which counsel is appointed for indigent respondents and compensated.

The court must order the vaccination if clear and convincing evidence shows it is necessary to protect the public health.

### ***Registering Deaths***

If the governor declares a public health emergency, the bill allows the

commissioner or his designee to register death certificates as needed and perform other related duties, including issuing burial transit, removal, and creation permits. These are functions normally performed by local registrars of vital statistics.

### ***Reportable Diseases***

The bill adds anthrax and other diseases likely to be caused by terrorism (not defined) to DPH's list of reportable diseases. By law, health care providers must report cases of reportable diseases occurring in their practices to the local health director and to DPH within 12 hours of when they recognize the disease. Such reports are confidential and not available for public inspection.

## **LOCAL HEALTH DIRECTOR AUTHORITY**

### ***Quarantine and Isolation***

The bill specifies that local and district health directors can order the isolation or quarantine of anyone they reasonably believe is infected with a communicable disease or contaminated and the action is needed to protect the public health. But it specifies that when the governor declares a public health emergency the directors must comply with any order the public health commissioner issues.

Under current law local directors can confine someone who is believed to be infected or harboring in or on his body radioactive material making him hazardous to others. The bill changes the term confinement to quarantine and isolation. It expands directors' authority by eliminating the current law that limits it to cases of people unable or unwilling to conduct themselves so as not to expose others to danger.

The bill applies the law's current requirements for confinement orders to isolation or quarantine orders. The order must be in writing and contain various information. An order can be effective for up to 15 days, and further orders for successive periods of up to 15 days can be issued. An isolated or quarantined person has a right to hearing before three probate court judges after requesting one in writing. The request does not stay the order.

### ***Vaccinations***

Current law allows local health directors to adopt measures for the general vaccination of residents, as deemed reasonable and necessary to prevent smallpox. The bill increases the fine for a person who refuses vaccination or who prevents someone else from being vaccinated to \$500 from \$5.

The bill requires that people subject to a vaccination order must first get a notice of it by personal service or whatever means the director deems appropriate. Anyone who is unable or unwilling to be vaccinated because of health or religious reasons must be isolated at a location the director determines.

The order must include a notice of their right to appeal to the probate court within 48 hours of receiving it. The bill applies existing due process procedures governing appeals of local health directors' confinement orders to appeals of the commissioner's quarantine or isolation orders. These include (1) notice requirements, including the respondent's right to counsel and to cross-examine witnesses; (2) the process by which counsel is appointed for indigent respondents and compensated.

The court must order the person vaccinated if it finds at a hearing, by clear and convincing evidence, that he needs vaccination to protect the public health. The health director can apply to Superior Court for an order to enforce a vaccination order. The court may modify the order as needed to protect the public health.

If the governor declares a public health emergency, the bill requires directors and boards of public to comply with any orders the commissioner issues under that declaration.

## **BACKGROUND**

### ***Legislative History***

The House referred this bill (File 209) to the Public Safety Committee on April 17 and the Judiciary Committee on April 24. Both committees reported it favorably.

## **COMMITTEE ACTION**

## Public Health Committee

Joint Favorable Report

Yea 25      Nay 0

## Public Safety Committee

Joint Favorable Report

Yea 17      Nay 0

## Judiciary Committee

Joint Favorable Report

Yea 29      Nay 1